

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PROGME CORPORATION,

Plaintiff,

vs.

COMCAST CABLE
COMMUNICATIONS, LLC, et al.,

Defendant.

Case No. 2:15-cv-13935-SJM-MJH

District Judge Stephen J. Murphy, III

Magistrate Judge Michael J.
Hluchaniuk

**DECLARATION OF KENNETH FAILBUS IN SUPPORT OF COMCAST
CABLE COMMUNICATIONS, LLC'S MOTION TO TRANSFER
PURSUANT TO 28 U.S.C. § 1404(A)**

I, Kenneth Failbus, declare as follows:

1. I have been an employee of Comcast Cable Communications, LLC (“Comcast”) since 2012. Since joining Comcast Cable, my title has been Development Operations and Build Release Engineer.

2. I make this declaration in support of Defendant Comcast in the above-captioned lawsuit. Unless otherwise stated, the facts I set forth in this declaration are based on my personal knowledge or knowledge I obtained through my review of corporate records or other investigation. If called as a witness, I could and would testify competently to such facts under oath.

3. Part of my responsibilities as Development Operations and Build Release Engineer involves managing and controlling the release of hardware and software products developed and used by Comcast in its provision of cable services in the United States. In this role, I was responsible for the deployment of the Comcast Message Bus (CMB) software in 2013.

4. I understand that the plaintiff made certain statements in the complaint in the above-captioned lawsuit regarding the location of data centers used to deploy the CMB software. To the best of my knowledge, the statement that Comcast has “contact with” or has “operat[ed]” a “certain cloud-based data center hosted by Amazon Web Services (AWS) within this judicial district” for the deployment of CMB is factually incorrect. The statement that Comcast operates “a

data center, '365 CLOUD STORAGE', hosted by Amazon (AWS) within this judicial district, DT1 Data Center at 24660 Lahser Road, Southfield, MI 48034" for the deployment of CMB is also factually incorrect.

5. In connection with its CMB software, Comcast Cable has never operated, and does not currently operate, a "365 CLOUD Storage," "DT1 Data Center," or any other data center hosted by Amazon or Amazon Web Services ("AWS"). Comcast has never operated a data center at 24660 Lahser Road, Southfield, MI 48034 in connection with its CMB software. In fact, Comcast has not operated, and does not currently operate, any data centers in Michigan at all in connection with its CMB software.

6. Comcast has not deployed, and does not currently deploy, any "servlets" or other software related to the CMB in a "365 Cloud Storage," "DTI Data Center," or any other Amazon or AWS data center. Comcast Cable has not deployed, and does not currently deploy, any "servlets" related to the CMB in any data center located at 24660 Lahser Road, Southfield, MI 48034. In fact, Comcast Cable has not deployed, and does not currently deploy, any "servlets" or other software related to the CMB in any data center located in Michigan.


7. Documents and files related to the deployment of Comcast Cable's CMB software are maintained electronically in a server that is accessible in Comcast Cable's offices located in Philadelphia, PA. One of those documents,

called an environment file list, confirms my understanding that the CMB was not hosted in an Amazon data center. Instead, the environment file list confirms my understanding that the CMB was hosted at Comcast's Potomac Data Center in Denver, Colorado. While CMB was being deployed, my Operations group managed the servers and other hardware for running the CMB from our Philadelphia office.

8. I understand I may be called as a witness at trial because I may have knowledge and information related to products and features at issue in the litigation. I live and work in the Philadelphia, PA, area. I believe if this matter were tried in Philadelphia, PA, the disruption to my daily management duties would be relatively minor and limited because I could travel to the courthouse in Philadelphia in less than 20 minutes. However, if I were required to travel to Michigan for trial, my daily management duties would be greatly impacted because I would be forced to take off days of work to travel to and from Michigan, and attend trial.

Executed this 16 day of March 2016 in Philadelphia, Pennsylvania.

I declare the foregoing under penalty of perjury under the laws of the United States of America.



Kenneth Failbus